

DATE: March 17, 1987

TO: Pam Hanson-Holtry, Legislative Services

Program Manager

FROM: City Attorney

SUBJECT: Corrections to City Council Minutes

You have patiently awaited a reply to your inquiry on a) what criteria should be used to make a correction to the Council minutes and b) when should a set of minutes that need corrections be returned to the City Council?

As to the first question, the principal criterion of the Clerk's office should be the accurate recordation of the acts of the City Council. To that end any and all amendments should be made to the minutes to permit an accurate account of the action of the City Council. As stated in McQuillin, Municipal Corporations at . 14.10.

IV. AMENDMENT

. 14.10. Generally.

The courts are liberal respecting amendments of corporate records. If, through inadvertence or misapprehension, the record has been defectively made, it is competent to complete it according to the truth. Thus, where the record fails to show that the yeas and nays were taken, it may be amended so that it will speak the truth.

¶Emphasis added.σ

Hence any nonsubstantive errors such as grammatical, typographical or computational errors may be corrected by the staff upon discovery. Where they are discovered after printing and filing, we think a correction notice detailing the time and nature of the correction should be filed since prior copies of the defective minutes may have been made.

As to whether and when corrections should go back to the City Council for consideration, we adopt a rule of reason. Indeed there is some authority that holds municipal boards have inherent power to amend their records to speak the truth. *Milk Products Co. v. Southern Sierras Power Co.*, 117 Cal.App. 121 (1931). Similarly a legislative body can always correct their minutes, even years later, by way of a motion to amend the previously adopted action. Robert's Rules of Order, section 47. San Diego Municipal Code, section 22.0101, Rule 2.

We think reason dictates that where a correction would

foreseeably have a substantive impact on the affairs of the City, the Clerk's office has an obligation to raise the issue on the Council docket. However, no precise criteria can be formulated on what corrections would foreseeably have a substantive impact. That determination must rest on the sound exercise of discretion by the Clerk and his staff.

While each correction must rest on its own facts and effect, we think the rule of reason dictates minor procedural, informal or computational corrections can be made by the staff under their authority to make the record "speak the truth." McQuillin, *supra* at . 14.10. Whereas, substantive changes that would foreseeably impact the affairs of the City should be formally noticed for correction.

We remain available to counsel on particularized problems and note that this rule of reason conforms to our advice in our September 29, 1986 Memorandum of Law to you regarding amendments to ordinances. (Copy attached)

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

TB:js:014(x043.2)

Attachment

ML-87-27